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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,628	02/01/2006	Henryk Kulakowski	64640.000003	8981
21967 7590 02/03/2009 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109			EXAMINER LEWIS, JONATHAN V	
			ART UNIT 2425	PAPER NUMBER
			MAIL DATE 02/03/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,628

Applicant(s)

KULAKOWSKI, HENRYK

Examiner

JONATHAN LEWIS

Art Unit

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This office action is in response to applicant's amendment filed October 30, 2008. Claims 9-15 are still pending in the present application. **This action is made FINAL.**

Response to Arguments

Applicant's arguments filed October 30, 2008 have been fully considered but they are not persuasive.

Applicant states that the prior art of record, specifically Robinson et al., does not read upon the invention as currently claimed. Applicant argues that while Robinson et al. does carry out the functionality of the invention, it is deficient in the manner in which the invention is carried out. Examiner respectfully disagrees. The way in which the method is currently claimed does in fact read on Robinson et al., as the examiner has pointed out in the last rejection. The functionality is the same, as the applicant has stated, and the applicant has failed to claim the different way in which the goods and services are to be ordered specifically. Therefore, examiner maintains his rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 9-12, 14-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Robinson et al. (US PG Pub. No. 2004/0109087).

Regarding claim 9 (Currently Amended), Robinson et al. teaches a method of ordering goods and services (Abstract), related to a transmission received by a customer (Fig. 1, 32 shows the television unit where the transmission is displayed by the set top box 30 where it is received), the method comprising: initiating a connection to a system for ordering goods and services related to a transmission received by the customer (Fig. 1, 34 shows the remote control used to initiate a connection to the internet), wherein the initiation is performed by a customer during reception of the transmission (page 1, 0009); ordering goods or services offered by the system for ordering goods and services (page 1, 0012), wherein the ordering is performed by the customer, the ordering refers to the transmission received by the customer, and the system for ordering goods and services is available for the duration of the transmission (page 2, 0019 discloses the selection during the transmission), and dynamically changing the offer of goods and services depending on the transmission (page 2, 0023 discloses the changing of the goods available based on the scene changes), and dynamically changing the offer of goods and services depending on the transmission, and in the case of an inability to offer certain goods and services, either suitably informing the customer of the inability during the connection or not servicing the connection (page 4, 0037 discloses the inability to offer certain goods and not servicing the connection).

Regarding claim 10 (Currently Amended), Robinson et al. teaches a method according to claim 9 characterized in that at any moment of the transmission, instead of initiating the connection, the customer remembers the current time of the transmission and sends it later during a suitable connection to the system of ordering goods and services, based on that time the range of the formerly broadcast transmission being identified, and the offer of goods and services being made available to the customer, identical to what the customer would have had access to at the remembered time (page 2, 0022 discloses the ability of the user to remember, by freezing the frame that they wish to later purchase from).

Regarding claim 11 (Currently Amended), Robinson et al. teaches a method according to claim 9 characterized in that the order parameters are given during the connection (page 3, 0029 discloses the order parameters of the viewer given to the service provider during the connection).

Regarding claim 12 (Currently Amended), Robinson et al. teaches a according to claim 11 characterized in that part of the order parameters, concerning the customer are available in the system of ordering goods and services and taken during the connection basing on the identification of the customer (page 3, 0029 discloses the viewer identification information available based on location, age, gender, and sales information).

Regarding claim 14 (Currently Amended), Robinson et al. teaches a method according to claim 9 characterized in that the connection during which the customer is identified is a confirmation of interest of the customer in the offer of the system of

ordering goods and services related to the transmission, and based on this confirmation and other such confirmations the customer considers offers generated by the system based on the identification of the customer and connections received from the customer during a later contact with the system of ordering goods and services (page 3, 0029 discloses that during the connection, the customer confirms interest by selecting the desired product, and at a later date the information is "mined" for viewing and purchase habits of registered users).

Regarding claim 15 (Currently Amended), Robinson et al. teaches a method according to claim 9 characterized in that the transmission is a multimedia transmission (Fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson et al. (US PG Pub. No. 2004/0109087) in view of Zigmund et al. (US Pat. No. 6,966,066).

Regarding claim 13 (Currently Amended), Robinson et al. teaches all the claim limitations as stated above, except that instead of the connection the exchange of messages between the customer and the system of ordering goods and services is enabled.

However, Zigmond et al. teaches that instead of the connection the exchange of messages between the customer and the system of ordering goods and services is enabled (col. 5, lines 39-53).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to enable a user to exchange messages with the system, in order to allow the user to have greater interactivity with the system when determining the goods and services to be purchased.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Hardingham et al. US PG Pub. No. 2003/0167469

b. Zigmond et al. US PG Pub. No. 2005/0273832

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN LEWIS whose telephone number is (571)270-3233. The examiner can normally be reached on Mon - Fri 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on (571) 272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425